

CHAPTER 9.

CONVERTER'S OPERATIONS

9.1 Definition of Conversion and Converters. According to the Texas Occupations Code, Chapter 2301, a "conversion" means a motor which has been substantially modified by a person other than the manufacturer or distributor of the chassis of the motor vehicle and which has not been the subject of a retail sale, unless the modification results in a motor home, ambulance, or fire-fighting vehicle.

A "converter" means a person who prior to the retail sale of a motor vehicle, assembles, installs, or affixes a body, cab, or special equipment to a chassis, or who substantially adds, subtracts from, or modifies a previously assembled or manufactured motor vehicle unless the resulting vehicle is a motor home, ambulance, or fire-fighting vehicle.

A "retail sale" is defined as the sale of a motor vehicle except: (A) a sale in which the purchaser acquires a vehicle for the purpose of resale; or (B) a sale of a vehicle that is operated under and in accordance with Section 503.061 of the Texas Transportation Code, which allows for the use of metal dealer's license plates. Section 2301.252 of the Texas Occupations Code, Chapter 2301 provides that a person must have a valid franchised dealer's license for the make or makes of new motor vehicles being bought, sold, or exchanged and that the "make" of a conversion is that of the chassis manufacturer.

What this means in "plain" English is that a new motor vehicle that has something substantial done to it prior to it being sold to the end-user customer must be sold to the end-user by a Texas dealer franchised and licensed to sell the make of the chassis of the converted product. Neither converters nor their representatives or the manufacturers are allowed to sell converted products in Texas at retail.

9.2 Licenses necessary. The licenses needed to correctly sell such converted products in Texas, including by bid, are as follows:

Manufacturer's license: The entity that built the chassis, cab and chassis, or entire vehicle, depending on the extent of the conversion.

Converter's license: The entity that performed the conversion work on the chassis, cab and chassis, or entire vehicle.

Representative's license: The entity that acted as a representative for the converter (if the converter employs or contracts with a person as a representative).

Franchised dealer's license: The Texas dealer that is licensed to sell the make of the chassis, cab and chassis, or entire vehicle.

For example, if the conversion is being performed on a new heavy-duty International truck, then International Truck and Engine Corporation would have the manufacturer's license and the entity that ultimately sells the converted product would be a licensed International dealer. If the conversion was performed on a new Ford light truck, then Ford Motor Company would have the manufacturer's license and the entity that ultimately sells the converted product would be a licensed Ford dealer. If the vehicle on which the conversion is performed is a Ford truck, then the converted product should be considered a new Ford truck with "something on it."

9.3 How the converter invoices. The franchised dealer must handle the title work for the new motor vehicle, invoice the customer, and collect the entire purchase price of the new vehicle. The dealer must sell the new motor vehicle; allowing the converter or representative to invoice the customer makes it appear that the converter is selling the new motor vehicle. Once the conversion work has been done, the unit is a "new motor vehicle with something on it" and the complete unit, including the "body," must be sold by a franchised and licensed dealer of the underlying chassis.

9.4 How the converter bids on a complete vehicle. A franchised dealer for the underlying chassis must be listed on the bid as the seller of the complete unit; the purchase order must be from the franchised dealer for the complete unit; the payment for the complete unit must be made to the franchised dealer; and the franchised dealer must perform necessary title work on the complete new motor vehicle. The converter can be involved in the bidding process by providing information on the specifications of the conversion package and other relevant information and assistance in drafting the bid; however, a franchised dealer and only a franchised dealer can sell the unit.

9.5 After-market conversions. The question often arises if a customer (private or government) bought and paid for a new cab and chassis from a franchised dealer then later purchased a conversion body mounted by a licensed converter, could the converter invoice the body and conversion work to the customer? The answer lies within the sequence of events. If the customer bought the vehicle first and then took it to someone to have special equipment or a body installed, this is an "after-market" conversion. This transaction would not be subject to regulation by the Texas Occupations Code, Chapter 2301, as long as the end-user customer pays the converter only for the body and the installation of the body, and the franchised dealer that sold the cab and chassis has done the title work on the completed vehicle. Because this vehicle has not been titled, it is still on a Manufacturer's Certificate of Origin (MCO), and franchised dealers are the only licensees that are allowed to turn MCOs into the tax offices to have titles issued in the name of the purchasers.

9.6 Purchases from an out-of-state converter by an in-state customer. If the vehicle is not delivered to the Texas customer by the converter *and no sales activity occurs in Texas*, including advertising, signing of documents, opening of a bid, etc., then the activity is not regulated by Texas law. Any Texas consumer can go to any other state and buy a vehicle without that out-of-state entity having to receive a license from Texas.

But the customer must go to the dealer or converter or whoever, not the other way around. Please note that bidding on a vehicle to be sold to a Texas consumer, including a municipality, is considered sales activity in Texas.

9.7 Warranty repairs or service work on converted products. One of the main reasons converters are required to be licensed is because of warranty issues. The converter can still train and provide service on the special equipment or body that they install. What they are not allowed to do is sell the new motor vehicle that their equipment is mounted on. So, if the service or warranty issues involve the conversion package, then the converter is responsible for that work. Any licensed and franchised dealer of the line-make of the chassis would be responsible for the warranty work on the chassis.

9.8 Selling a converted unit directly to a franchised dealer. This is not a retail sale. The converter would technically have to sell the converted new motor vehicle to the franchised dealer in order for the franchised dealer to sell the converted new motor vehicle to the end-user customer.

9.9 Buying or selling a new converted unit to out-of-state customers. No one but a franchised dealer of the underlying chassis can sell a converted new motor vehicle in Texas. Other states may have different laws governing the sales of converted vehicles. Check with the individual state or states to determine what their laws permit.

9.10 Selling Conversion Demonstrators. Converters sometimes have new converted motor vehicles in their stock that they commit to being demonstrators and will title these units in the name of the converter. If the converter did not purchase the vehicle for their personal use, but only to use it as a demonstrator for their business and get someone else to buy it, the sale of the unit to the converter was not a "retail sale", as it was for the purpose of resale, and the unit is still a new motor vehicle. If it's still a new motor vehicle, then it can only be sold by a franchised and licensed dealer for the underlying chassis, even though a title has been issued for the vehicle.

9.11 Converter Plates. The Texas Transportation Code was amended in 1999 to allow converters to purchase metal converter license plates to attach to vehicles that they are engaged in the business of assembling or modifying, instead of having to title and register the vehicle.

Converters may also obtain temporary tags to use on unregistered vehicles in order to demonstrate the complete unit to prospective buyers who are employees of a franchised motor vehicle dealer, or convey the vehicle under certain circumstances. Converters are required to obtain a vehicle specific number from the state Vision 21 database for these tags. The rules regarding converter temporary tags are similar to the dealer tags as outlined in Dealer Operations Section 4.11. See 4.11(e) for specific reference to converter temporary tags.